

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

LUCILLE MANDACINA

Appellant

v.

HARRAH'S OF NORTH KANSAS CITY AND DIVISION OF EMPLOYMENT SECURITY

Respondents

DOCKET NUMBER WD79744

DATE: February 28, 2017

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Four

Mark D. Pfeiffer, Chief Judge Presiding, Thomas H. Newton, and Lisa White Hardwick, JJ.

Attorneys:

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MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

LUCILLE MANDACINA, Appellant, v. HARRAH'S OF NORTH KANSAS
CITY AND DIVISION OF EMPLOYMENT SECURITY, Respondents

WD79744

Labor and Industrial Relations Commission

Before Division Four Judges: Pfeiffer, C.J., Newton, and Hardwick, JJ.

Mandacina, a casino table games dealer, voluntarily placed her name on a list of problem gamblers, which meant that she could not go onto a casino floor other than for work. She used an ATM machine on the casino floor, and her gaming license was later revoked. Without the license, she could no longer work as a casino dealer. Employer Harrah's of North Kansas City offered to place her on reassignment status for thirty days, and she agreed because her health-insurance benefit would continue if she secured other available employment at the casino during that period. Before the end of the reassignment period, Mandacina signed a resignation letter after learning that she could not apply for food stamps, collect unemployment compensation, or access her 401(k) savings while on reassignment status. Although Mandacina knew that it was her responsibility to find another position within the casino, she testified that she did not apply for other positions because none was available and because a Harrah's representative had said she would reach out to Mandacina if something of interest opened up. According to hearing testimony, a housekeeping position was available during Mandacina's reassignment period; it was posted on the company's website. A deputy denied Mandacina's application for unemployment benefits, and a Commission appeals tribunal affirmed, finding that she voluntarily separated from her employment when she signed the resignation letter on December 2, 2015, and she did not have good cause attributable to the work or her employer to quit. The Commission affirmed, and Mandacina filed this appeal.

AFFIRMED.

Division Four holds:

In the first point, Mandacina argues that the evidence was insufficient to support the Commission's decision that she voluntarily quit her employment, because Harrah's terminated her before she "quit." She bases this argument on the employment security law's definition of "employment" as services performed for wages, which exclude payments for medical insurance. She provided no services, and the employer paid no wages, so she claims that an employment relationship did not exist during the reassignment period. She also argues that losing her gaming license does not prevent her from receiving benefits under *Renda v. Eastern Metal Supply of Missouri, Inc.*, 414 S.W.3d 556 (Mo. App. E.D. 2013). *Renda* is distinguishable because the employee there lost his commercial driver's license after driving while intoxicated, and the employer decided to terminate him rather than employ him in a non-driving capacity. Here, what led to Mandacina's separation was her action in signing the resignation letter to access her 401(k) savings and gain unemployment benefits. We find that Mandacina's reassignment status is similar to the on-call status of a catering company employee who was found to have voluntarily left her work by asking her employer for separation papers in *Mauller v. Division of Employment Security*, 331 S.W.3d 714 (Mo. App. W.D. 2011). The ongoing employment

relationship there did not, as here, turn on whether the employee was providing services and receiving wages; rather, the ongoing reassignment or on-call status was evidence that the employer had not discharged the employee. We agree with the Division that Mandacina voluntarily left work on the day she signed the resignation letter; it was the last act that severed the relationship. This point is denied.

The second point asserts that the evidence was insufficient to show that Mandacina lacked good cause to quit because any reasonable person would leave a job that provided no hours of work and no financial remuneration, and her status acted only to block access to her 401(k) savings. We agree with the Division that Mandacina's own actions in losing her gaming license and her failure to avail herself of the opportunity to apply for other positions not requiring a license led to her reduction in hours. She was required to have a gaming license to work as a table games dealer at Harrah's. For personal reasons, she placed herself on the list of problem gamblers and then violated a condition imposed on such persons, thus losing her license. Eighty percent of the jobs at Harrah's required a gaming license, so the odds were long that she would be able to secure a different position with the company. When Mandacina signed the resignation letter before the reassignment period ended, she did so for personal reasons, i.e., she needed the funds in her 401(k) savings. We conclude that the Commission correctly determined that she did not have good cause attributable to work or the employer to voluntarily separate herself from her employment. This point is denied.

Therefore, we affirm the Commission's determination.

Opinion by Thomas H. Newton, Judge

February 28, 2017

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